

**COMMENT ON PFS' RIGHT-OF-WAY APPLICATION TO THE  
U.S. BUREAU OF LAND MANAGEMENT  
USE OF PUBLIC LANDS FOR THE TRANSPORTATION,  
STORAGE AND TRANSFER OF SPENT NUCLEAR FUEL**

Private Fuel Storage, LLC (PFS) has applied to the U.S. Bureau of Land Management (BLM) for two right-of-way permits to conduct ultra hazardous activities on public lands.

I. One application is for a 32 mile long, 200 foot wide permanent right-of-way to construct and operate a rail line (the rail bed is 40 ft. wide; cut and fill will take up the remaining 160 ft. width). During the requested 50 year permit term, the ultra hazardous activity for which PFS desires to use public land is to transport up to 200 casks of spent nuclear fuel each year on a rail line constructed of used bolted rail.

The National Defense Authorization Act for Fiscal Year 2006, Section 384, created the Cedar Mountains Wilderness area. The new wilderness area, by encompassing a portion of PFS' proposed rail route, makes it impossible for PFS to construct a continuous rail route to the Skull Valley Indian Reservation. *See* map. The Wilderness Act prohibits any commercial enterprise, permanent or temporary road, mechanical transport, or structure or installation within a wilderness area. 16 U.S.C. § 1133(c). Therefore, by law, BLM cannot issue PFS' requested right-of-way permit to build and operate a rail corridor through the Cedar Mountain Wilderness area. This BLM comment period provides another opportunity to identify the Wilderness Area prohibition for the record.

II. PFS' second application is for 21 acres of public land between the Union Pacific rail line and the I-80 frontage road, located 1.8 miles west of the intersection of I-80 and Skull Valley Road at Rowley Junction (Timpie). During the requested 50 year permit term, the ultra hazardous activity for which PFS desires to use public land is to construct rail tracks, a service road and a building housing a crane, where spent nuclear fuel storage transfer operations would be processed. PFS anticipates 2-3 weekly shipments, consisting of up to 3 casks per shipment, at its intermodal facility. Casks will be stored in plain view of I-80 while awaiting onward transportation to PFS' storage site on the Skull Valley Indian Reservation. As such, they will present an open target to terrorists.

Resource management plans are the keystone to BLM's management of federal public lands. 43 U.S.C. § 1712. *See* <http://www.ut.blm.gov/landuseplanning/existing.htm> The Pony Express Resource Management Plan (RMP) documents public land management and use applicable to PFS' right-of-way applications for its proposed intermodal facility and rail corridor. *See* <http://www.ut.blm.gov/planning/PONYFEIS.PDF> None of the uses described in the Pony Express RMP allow for construction and operation of a rail line or for the construction and operation of a storage and transfer facility at Rowley Junction. Significantly, the Pony Express RMP has a policy against allowing hazardous materials on public lands: "Public land will not be made available for inappropriate uses such as storage or use of hazardous materials . . . ." RMP at 4. The RMP also says: "no further authorizations will be made for the treatment, storage or disposal of hazardous waste on public lands." RMP at 29. The ultra hazardous activities that PFS intends to conduct on public lands are incompatible with the Pony Express RMP.

BLM's organic statute for managing public lands, the Federal Land Management Policy Act (FLPMA), directs that in "designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, [BLM] shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices." 43 U.S.C. § 1763. FLPMA further directs that each right-of-way permit contain terms and conditions to protect Federal property and economic interests, protect lives and property, and otherwise protect the public interest in the lands traversed by the right-of-way or adjacent to them. 43 U.S.C. § 1765.

PFS, a shell company, has no independent assets. NRC has not required a decommissioning plan for the intermodal facility or required any funds to be set aside to deal with accidents, abandoned casks, etc., at the proposed intermodal facility or the rail corridor. Furthermore, PFS' "plan" (with NRC's approval) for dealing with leaking casks is to ship them back to the nuclear power plant (spent fuel owner). In addition to environmental and financial risks, national security is also threatened. Spent nuclear fuel casks being stored next to I-80 or on a slow moving truck passing under the I-80 overpass will present a prime terrorist target. In the post-September 11 world, the threat of terrorism is real, the target readily available, and the consequences dire. In sum, the lack of any financial security, the potential for environmental harm, and the threat to national security are totally contrary to the public interest and the language of FLPMA.

For information on submitting written and public meeting comments, see [BLM Notice of Public Comment](#)